IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

And
THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 13972 of 2004

Between:

N.V.Someswara Rao, S/o Late Kameswara Rao,
(formerly Village Administration Officer), Gram Panchayat, Laveru,

Srikakulam District.

..... PETITIONER

AND

1 The Joint Collector, Collector's Office, Srikakulam
2 The District Collector, Srikakulam, Srikakulam District
3 The Government of A.P.rep.by its Secretary, Revenue (VD) Department, Secretariat, Hyderabad.

4 The Revenue Divisional Officer, Srikakulam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Certiorari calling for records relating and connected with the judgment in O.A.No.156/2000 dated 29-06-2004 passed by the Honorable Tribunal, Hyderabad and set aside the same including the proceedings Memo No.67661/VO.2/96-2, dated 30-12-1999 as arbitrary, contrary to the rules, decision and also in violation of principles of natural justice with all consequential benefits and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.M.KESAVA RAO

Counsel for the Respondents: G.P. FOR SERVICES II

The Court made the following:

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JUDGMENT: **(PER THE HON'BLE SRI JUSTICE GODA RAGHURAM)**

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The applicant was initially employed as Village Karanam and thereafter selected as Village Administrative Officer of Laveru village in Srikakulam District. In 1996, a show cause notice was issued to the petitioner by the Revenue Divisional Officer concerned, alleging irregularities, to which, he submitted explanation and thereafter his resignation on 14.05.1996. After the petitioner submitted his resignation, the Revenue Divisional Officer dropped the charges initiated against him on 06.11.1996. The petitioner claims to have withdrawn his resignation by a letter dated 17.07.1996 addressed to the Revenue Divisional Officer, which he claims to have sent by registered post. The Revenue Divisional Officer, by his report dated 24.07.1996 addressed to the first respondent-Joint Collector, forwarded the resignation submitted by the petitioner. The first respondent accepted the resignation of the petitioner after affording a personal hearing to the petitioner during which he admitted that he had submitted his resignation without any coercion or duress, by proceedings dated 04.08.1996. Aggrieved, the petitioner preferred a review petition to the State Government. The State Government initially granted stay of the order of the Joint Collector, dated 04.08.1996. Subsequently, by an order dated 30.12.1999, the stay earlier granted on 28.10.1996 was vacated and the Review Petition was dismissed. Aggrieved by the order of the State Government, dated 30.12.1999, the petitioner filed O.A.No.156 of 2000 before the A.P.Administrative Tribunal (for short 'the Tribunal'), which was dismissed by the order dated 29.06.2004. Aggrieved by the order of the Tribunal, the writ petition is filed.

The Tribunal, while rejecting the O.A. held that the petitioner was afforded an

opportunity and called for a hearing on 18.03.2000 and arguments were also heard and as the Government found no fresh reasons to alter the earlier orders impugned in the O.A., and there is no infirmity in the original order of the Government, dated 30.12.1999.

The A.P. Village Administrative Officers' Service Rules, 1990 (for short 'the Rules'), issued under proviso to Article 309 of the Constitution of India, in G.O.Ms.No.943, Revenue (V.O.), dated 07.11.1990 regulate the conditions of the service. According to Rule 50 of the Rules, an appeal against the appointment of a Village Administrative Officer lies to the District Collector within thirty (30) days in respect of an order of appointment made under Rule 9 and a second appeal to the Commissioner of Land Revenue within ninety (90) days from the date of receipt of the order of the Collector. Under Rules 51 to 53 of the Rules, an appeal against the order of the Mandal Revenue Officer punishing a Village Administrative Officer, lies to the Revenue Divisional Officer within thirty (30) days from the date of the order of the Mandal Revenue Officer. An appeal against the order of the Revenue Divisional Officer, as aforesaid, punishing a Village Administrative Officer would lie to the District Collector within thirty (30) days from the date of such order. The second appeal against an order punishing Village Administrative Officer namely a dismissal or removal order in appellate or original proceedings, lies to the Commissioner of Land Revenue within ninety (90) days from the date of receipt of the order of the Collector. Even if the petitioner were to consider the order of the Joint Collector, dated 04.08.1996 as an order of punishment, the appeal would lie to the Commissioner of Land Revenue. However, the petitioner preferred a review to the State Government.

It requires to be noticed that the order of the Joint Collector, Srikakulam, dated 04.08.1996, is an order of acceptance of the resignation of the petitioner on verification by the Collector in a personal hearing afforded to the petitioner, that his resignation tendered was genuine and without coercion. As the order of the Joint Collector is an order of acceptance of resignation which is not an order by which the petitioner could have been aggrieved and in respect of which a review would lie to the Government under Rule 55 of the Rules which enables the Government, *suo motu* or by an application from any person interested, made within ninety (90) days of the passing of an order, to review the order if it

was found to have been passed under any mistake either of the fact or of the law or in ignorance of any material fact. As the order of the Joint Collector, dated 04.08.1996, is not an order of punishment, in the considered view of this Court, no review is maintainable before the State Government under Rule 55 of the Rules. As the review petition filed by the review petitioner itself is incompetent, the Government had no jurisdiction to adjudicate upon such an application.

In the aforesaid circumstances, we find no error
in the reasons recorded by the Tribunal for its conclusion to
reject the O.A. It requires to be noticed that in the personal hearing afforded to the petitioner on 29.07.1996, the petitioner did not inform the Joint Collector that he had withdrawn his resignation by a letter dated 17.07.1996. The petitioner has also failed to demonstrate that the so called withdrawal of resignation letter was received prior to the acceptance of his resignation. We find no infirmity in the order of the Government, dated 13.12.1999, as in any event, the Government is incompetent to entertain the review under
Rule 55 of the Rules. Therefore, we find no merit in the writ petition. We are not inclined to exercise the discretionary remedy of Mandamus in the totality of the facts and circumstances of this case.

The writ petition is accordingly dismissed. No order as to costs.

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J.CHELAMESWAR, J

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GODA RAGHURAM, J

Dated 28th September, 2004.

YCR/MRK

To

1. The Registrar, A.P. Administrative Tribunal, Hyderabad.

2. The Joint Collector, Collector's Office, Srikakulam.
3. The District Collector, Srikakulam, Srikakulam District.
4. The Secretary, Revenue (VD) Department, Government of A.P.,

Secretariat, Hyderabad.
5. The Revenue Divisional Officer, Srikakulam.

6. 2 C.Cs to G.P. for Services II, High Court Buildings, Hyderabad.

(O.U.T)

7. 2 C.D. copies.